

REMARKS

The present Amendment is being filed in response to the Office Action mailed on February 11, 2004, and in view of the office interview conducted on July 13, 2004. Applicant's attorneys greatly appreciate the courtesies extended by Examiner Dabney during the office interview.

At the interview, it was agreed that with respect to Claims 2-10, 20 and 21, the limitations regarding the battery and/or receiver being non-removably integrated with the removable compliant earmold (as discussed in the Specification at, for example, page 2, line 22 through page 5, line 2, and page 12, line 25 through page 13, line 15) would be considered by the Examiner. Also as discussed at the interview, independent Claims 1 and 22 have been amended to specify that the earmold contains a hearing aid component non-removably integrated within the earmold. Applicant's reiterate their arguments made at the interview and in the previous amendments in this application that the invention of Claims 1-10 and 20-22 relate to modular, or partially disposable hearing aids, in which one or more hearing aid components are housed within a base unit, and one or more hearing aid components, such as the battery and/or the receiver, are housed within a compliant, removable earmold section, so that these components can be easily removed and replaced by replacing the earmold section. It is a further advantage that the earmold is made of a flexible, compliant material, which is more comfortable and conforming than conventional earmolds in non-disposable hearing aids that are intended to be used for the entire life of the device. In the modular disposable hearing aids of Claims 1-10 and 20-22, the softer materials of the earmold may be less durable than in conventional hearing aids, but this is not a disadvantage, since the "disposable" compliant earmold is replaced on a relatively frequent basis. This feature of a "partially disposable" modular hearing aid is not taught or suggested in any of the cited references, including Voroba '688, Weeks '743, Deithelm '540, or Baum '038. Thus, it is believed that Claims 1-10 and 20-22 should be allowed.

Furthermore, the limitation that the compliant earmold has a shorter useful life than the useful life of the base unit is clearly disclosed in the Specification at, for example, page 3, line 22 through page 4, line 2, which discusses the trade-off between comfort and durability of the earmold, and discloses the concept of a partially disposable hearing aid using ultra-soft materials

for a replaceable earmold that need not last the entire lifetime of the base unit. Thus, it is believed that the Examiner's § 112 rejections of Claims 1, 8-10 and 22 are overcome.

In the Office interview, it was agreed that Claim 11 would be amended to further define the removable "module" comprising "a shell and electronics." Specifically, it was agreed that Claim 11 would be amended to specify that the "module" could not include the receiver, so as to more clearly distinguish over Voroba '688. Claim 11 has been amended to specify that the "module" is removable from the base unit, the earmold, and the receiver, and Claims 13 and 15 have been cancelled. Thus, it is believed that Claims 11, 12, 14 and 16-19 are now allowable.

In the Office interview, it was also agreed that Claims 25, 36 and 42 would be amended to include additional limitations regarding the relationship between the mushroom-shaped tip and vibration isolation portion. These claims have all been amended to specify that the earmold comprises a tip having a mushroom-shaped tip portion and a vibration isolation portion housing the receiver, where the mushroom-shaped tip portion is "integral with" the vibration isolation portion. Since this feature is not taught or suggested in any of the cited references, including Voroba '688, Weeks '743, Deithelm '540, or Baum '038, it is submitted that Claims 25, 27-39 and 41-42 are all allowable.

In the Office interview, it was also agreed that the Examiner would review Claims 44 and 47, which relate to the potting material. The applicants respectfully submit that the cited Yoest reference cannot anticipate or render obvious the hearing device of Claim 44 or the method of Claim 47. Claim 44 recites a base unit adapted to contain a non-replaceable component, and a potting material which pots at least a portion of the inside portion of the base unit, and wherein the material attenuates vibrations caused by the receiver. Claim 47 recites an analogous method of potting the inside of a hearing aid. The Examiner asserts that Yoest shows the "potting material" of the present claims at reference number 92a. However, Yoest actually states that 92a is "a deformable sponge-like covering or layer" that is located on the *outside* of the hearing aid housing 90. (See col. 4, lines 14-18; Fig. 4). Therefore, Yoest does not teach or suggest a potting material *inside* the base unit, nor does Yoest teach or suggest providing a potting material to attenuate vibrations from the receiver. In fact, Yoest does not even discuss vibrations from the receiver, or suggest that such vibrations can cause mechanical or acoustical feedback. It appears that Yoest provides the exterior deformable layer to increase comfort, (see col. 4, line 22-23), and

does not at all teach or suggest a potting material *inside* the base unit to increase mass and attenuate vibrations from the receiver. Since Yoest fails to disclose the potting material *inside* the base unit, as presently claimed, and because Yoest only discusses a deformable layer *outside* the device for an entirely different purpose than the potting material of the present invention, it is believed that Claims 44 and 47 are allowable.

Finally, with respect to Claims 58-63, the Examiner indicated that she would review these claims in view of the references of record, including U.S. Patent 6,473,513 to Shennib, et al., which was provided to the Examiner at the interview and requested to be made of record subject to the following proviso that the '513 patent is not hereby conceded to be prior art to the present application or certain of Applicant's copending applications which claim priority to earlier filed provisional applications. Applicant reserves the right to copy the claims of the '513 patent in one or more copending applications for purposes of provoking an interference.

Applicants have amended independent Claim 58 to positively recite that the hearing aid tip comprises "a flexible compliant material forming the tip" and a receiver in the tip which includes a diaphragm adapted to vibrate in operation creating acoustical vibrations. It is believed that Claims 58-63 are all allowable.

In the Office Action dated February 11, 2004, Claims 46, 48 and 50-54 were allowed. In view of the above amendments and remarks, it is respectfully submitted that Claims 1-12, 13, 14, 16-22, 25, 27-39, 41-42, 44, 47 and 58-63 should also be allowed.

CONCLUSION

In view of the above amendments and remarks, it is believed that all claims are in condition for allowance, and it is respectfully requested that the application be passed to issue. If the Examiner feels that a telephone conference would expedite prosecution of this case, the Examiner is invited to call the undersigned.

Respectfully submitted,

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